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Part III

Consumer Product Safety Commission

Omnidirectional Citizens Band Base Station Antennas; Proceeding To Develop a Consumer Product Safety Standard

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Chapter II]

Omnidirectional Citizens Band Base Station Antennas; Proceeding To Develop a Consumer Product Safety Standard by the Commission

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of proceeding to develop a proposed consumer product safety standard.

SUMMARY: The Commission begins the development of a proposed mandatory consumer product safety standard for omnidirectional Citizens Band base station antennas to reduce the risk of injury to consumers caused by electric shock occurring when the antenna comes into contact with electrical power lines while the antenna is being put up or taken down. The Commission has determined that it is more expeditious for the Commission to develop this proposed standard itself than for interested parties outside the Commission to develop the proposed standard. The Commission also solicits participation in the standard development proceeding by interested persons outside the Commission, and will contribute to costs of some persons who qualify for funding of their participation.

DATES: Persons interested in participating in the development of the standard should notify the Commission's Office of the Secretary, preferably by October 15, 1979. Persons requesting funding for their participation are requested to submit the information to support their request by October 15, 1979 so that the requests may be considered before the first meeting of the public participants, which is presently scheduled for November 1, 1979. Although requests for funding may be submitted at any time during the development process, funding will not be approved for participation that takes place before the consideration of the funding request by the Commission.

Persons who have information that would be helpful to the Commission in the development of the standard are also requested to submit the information to the Commission by October 15, 1979. Information that is submitted after that time will also be considered if practicable.

The Commission has specified that the development period, which is the period of time that the Commission allots to develop the provisions of a proposed standard and to prepare the standard for publication as a proposed standard, shall be until April 30, 1981. The Commission may extend the development period by publishing a notice in the **Federal Register** providing reasons for the extension. If the Commission does not publish a proposed standard within 45 days after the end of the development period, it will publish a notice in the **Federal Register** specifying the time period within which either (1) the proposed standard will be published or (2) the proceeding terminated.

ADDRESSES: Submissions should be addressed to the Secretary, Consumer Product Safety Commission, 3rd Floor, 1111 18th Street, NW., Washington, D.C. 20207. Copies of all materials which the Commission has concerning this proceeding may be obtained from the Office of the Secretary.

FOR FURTHER INFORMATION CONTACT: Carl Blechschmidt, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, phone (301) 492-6557.

SUPPLEMENTARY INFORMATION:

A. The Product

This notice applies to antennas designed or intended to be used as outdoor omnidirectional Citizens Band (CB) base station antennas. (An omnidirectional antenna transmits and receives an approximately uniform signal level in all horizontal directions from the antenna.)

B. The Risk of Injury

The Commission estimates that approximately 220 persons in 1975, 275 persons in 1976, and 220 persons in 1977 were electrocuted in incidents involving communications antennas. In addition, a large number of non-fatal injuries occurred in these years. The vast majority of these incidents occurred when the antennas contacted electrical power lines while being put up or taken down. Typically, these incidents occur when the antenna contacts the power line while the antenna is being carried to where it will be erected or when it falls into a power line because it gets out of the control of the persons who are putting it up or taking it down. The Commission estimates that over 70 percent of the antennas involved in these accidents are Citizens Band (CB) base station antennas.

Data available to the Commission show that almost ⅔ of the incidents involve power lines carrying about 7000 volts and that less than 10 percent of the incidents involve lines carrying 13,000 volts or more. It also appears that almost all of the power line contacts took place with the antenna rather than the supporting structure and that about 66 percent of the accidents occurred when the antenna contacted the power line within the top 5 feet of the antenna, about 87 percent involved contact within the top 10 feet of the antenna, and about 90 percent involved contact within the top 15 feet. About half the accidents occurred with antennas that were less than one year old, and about 30 percent occured with antennas that were one to three years old. (However, it is difficult to evaluate these figures concerning the age of the antennas since the number of antennas sold during the past several years is not known. The commission will try to obtain these data during the standard's development.)

The typical victim of an antenna accident is an adult male who has had some previous experience with putting up antennas, or who is assisting someone with previous experience.

From 78 incidents that have been investigated in depth by the Commission, it appears that approximately half of the accidents involved multiple victims. These incidents involved 86 fatalities and 61 non-fatal injuries. The non-fatal injuries were often quite severe, involving prolonged hospitalization, skin grafts, and, occasionally, loss of limbs.

The Commission has not received complete data for 1978, but preliminary data show that there has been a substantial reduction in deaths in 1978. The reduction may stem in large part from reduced sales of antennas. However, the Commission preliminarily estimates that over 100 electrocution deaths associated with antennas occurred during 1978 and that this constituted the major cause of electrocution among all consumer products.

C. Background

As a result of the information that it received concerning these deaths and injuries, and in response to a petition filed with the Commission by Lawrence H. Chapman on June 29, 1976, the Commission took several actions. First, the Commission reasoned that if consumers knew of the danger and how to avoid it, they would be able to take steps to protect themselves. Therefore, the Commission issued a rule (16 CFR Part 1402) requiring manufacturers and importers of (1) outdoor Citizens Band (CB) base station antennas, (2) outdoor television antennas, and (3) antenna supporting structures to provide purchasers with (a) instructions on how to avoid the hazard of contacting electric power lines with the antenna or

supporting structure while putting it up or taking it down, (b) lables on the antennas (and provided with the supporting structures), warning of the hazard of electrocution and referring the reader to the instructions, and (c) statements on the packaging or parts container, and at the beginning of the instructions, warning of this hazard and referring the reader to the instructions. A detailed discussion of the rule and the reasons for issuing it is in the **Federal Register** document that issued the rule (43 FR 28392; June 29, 1978).

In addition, the Commission concluded that while the labeling rule of Part 1402 is necessary in order to reduce the deaths that occur due to the contact of television and CB base station antennas with electric power lines, a standard that would help insure that the antenna would not conduct a harmful amount of electricity to the installer if the antenna did contact a power line would address the risk of electrocution more effectively than labels and instructions alone and thereby cause a greater reduction in deaths and injuries.

Accordingly, the Commission contracted with Systems Consultants, Inc. for a study of the technical feasibility of a safety standard that would address the risk of electrocution associated with CB antennas. The study, entitled "Feasibility Study for a Citizens' Band Base Station Antenna Standard," concluded that insulating the antenna was the most promising approach for providing protection. Copies of the study and the other materials that the Commission has concerning the feasibility of a safety standard for antennas may be obtained from the Office of the Secretary.

After considering the feasibility study and the other information available to it, the Commission has preliminarily determined that the shock hazard associated with CB base station antennas constitutes an unreasonable risk of injury and that a consumer product safety standard is necessary to eliminate or reduce that unreasonable risk.

However, the Commission recognizes that directional antennas and omnidirectional antennas present different questions of technical feasibility and cost for any safety standard that would apply to each type. The directional type of CB base station antenna is generally heavier and more complex than the omnidirectional type of antenna due to the larger number of elements that are required to produce its directional characteristics. Because of this, the Commission believes that a standard applicable only to omnidirectional CB base station antennas can be developed more quickly than a standard that would be applicable to both directional and omnidirectional CB base station antennas. In addition, the omnidirectional type of antenna is used more often than the directional type. For these reasons, the scope of the standard development proceeding is limited to omnidirectional antennas. The Commission anticipates that much of the technical information that is obtained during the development of a standard for omnidirectional antennas will also be applicable to a standard for directional antennas. The Commission will continue to evaluate the feasibility of a standard for directional antennas, and if it appears that such a standard is feasible, it will address the desirability of a mandatory standard for directional antennas at a later time.

A packet of information concerning (1) the specific nature of the risks of injury associated with omnidirectional antennas, (2) the basis for the Commission's determination concerning the need for a mandatory standard, and (3) additional information relating to the development of the proposed standard by the Commission which may be helpful to potential participants or other interested persons may be obtained from the Office of the Secretary.

D. Development of the Proposed Standard by the Commission

Under section 7 of the Consumer Product Safety Act, 15 U.S.C. 2056, a proposed consumer product safety standard may generally be developed in the following ways:

1. The Commission may solicit offers from persons or organizations outside the Commission to develop a recommended standard. Persons submitting such offers are referred to as "offerors," and the development of recommended standards in this manner is called the "offeror process."

2. The Commission may invite persons or organizations outside the Commission to submit to the Commission an existing standard which could be proposed as a consumer product safety standard.

3. The Commission may publish an existing standard or combination of existing standards as a proposed consumer product safety standard.

4. The Commission may develop the proposed standard itself if the Commission determines that it is "more expeditious" than development by the offeror process.

In the case of the electrocution hazard associated with CB base station antennas, the Commission is not aware of any standard issued, adopted, or proposed by any Federal department or agency or by any other qualified agency, organization, or institution that would adequately reduce the risk and could be published as a proposed standard by the Commission. However, any person is invited to submit to the Commission by October 15, 1979, an existing standard or combination of existing standards as the proposed consumer product safety standard.

The Electronic Industries Association (EIA) has an ad hoc committee working on the development of a voluntary standard for omnidirectional CB base station antennas. The Commission considered whether such a voluntary standard might adequately address the risk of injury. After communicating with EIA, however, the Commission concludes that a mandatory standard is needed to adequately reduce the risk and cannot at this time conclude that EIA's development effort will result in a standard that would be suitable for prompt proposal as a mandatory standard. Therefore, the Commission has decided to proceed with the development of a mandatory standard. (However, the Commission's staff will monitor EIA's development effort, and the Commission intends to consider any standard developed by EIA to determine if the standard could be proposed by the Commission as a mandatory standard.)

In determining whether a standard should be developed by the Commission itself rather than through the offeror process, the Commission is required by section 7(b)(2) of the Consumer Product Safety Act to consider the following factors.

1. The nature of the risk of injury associated with the product.

2. The expertise of the Commission with respect to the risk of injury.

3. The expertise of the Commission in developing consumer product safety standards.

4. The resources available to the Commission and the priorities established by the Commission.

After considering these factors, the Commission determined that it would be more expeditious for the Commission to develop this standard itself than for interested parties outside the Commission to develop the standard. In the **Federal Register** of July 3, 1979 (44 FR 38854), the Commission published a notice announcing its determination to develop the standard itself and requesting public comment on the determination.

E. Response to Comments

In response to the **Federal Register** notice of July 3, 1979, the Commission received 18 comments. Although the Commission is not legally required to

reply to these comments, an explanation of the comments and the Commission's response to them are given below.

Most of the comments that were received did not address the merits of the Commission's determination to develop a standard itself rather than to rely on the offeror process. Rather, the comments addressed the type of standard that should be issued, the need for a standard, and other issues. These comments need not be specifically addressed at this time since these issues will be considered in the future during the development of the standard. However, the comments that are relevant to the development of a standard will be addressed by the staff and public participants during the development proceeding. Comments that were not strictly responsive to the July 3, 1979, **Federal Register** notice included the following:

1. One commenter noted that in his opinion many antennas were installed at heights that were too high for optimum performance or that were inappropriate for the location of the antenna in congested areas.

2. A commenter supplied data on antenna shock incidents and contended that 16 CFR Part 1402 should apply to antenna products in addition to CB and TV antennas.

3. Several commenters generally supported the goal of a mandatory standard for CB omnidirectional base station antennas.

4. Three commenters opposed a standard because they believed it would be ineffective and inflationary, while two others contended that the government should not protect "careless" people from themselves or that a standard would be a waste of money.

5. One commenter suggested that the standard should not allow the erection of an antenna in any location where it could contact a high voltage line in any direction.

6. One commenter suggested a specified shrink tubing and a specified coating as suitable insulating materials.

7. Another commenter suggested that an insulating sleeve should be slipped over the antenna rods or sprayed onto all metal parts.

8. One commenter suggested that publicity to make users more safety conscious will be more effective than a standard.

9. One commenter contended that weathering or a coating of salt will destroy the value of the insulation after a period of time, and another suggests that contamination of the antenna will result in the antenna becoming a hazard in actual use.

10. A commenter suggested that the Commission contact the American Radio Relay League for information during the standard's development.

11. One commenter argued that a warning label provides enough protection, and that if an antenna contacts a power line, people need only stay away until the power company "takes care of it."

12. One comment raised the possibility that a safety standard could create "an aura of protection * * * that could result in the opposite effect * * * (from that) which the Commission is trying to obtain."

13. One commenter reported interference effects caused by nearby CB transmitters.

14. Three of the commenters responded to the Commission's request that persons who were interested in participating in the development of the standard should notify the Commission.

15. Three commenters suggested that the problem could be addressed by insulating the power lines themselves.

Three commenters discussed the decision of the Commission to develop the standard itself. The National Consumers League (NCL) stated that it was not challenging the Commission's authority to develop this particular standard itself rather than by using the offeror process. However, they criticized the reasons the Commission used to justify in-house development, indicating that they believed those reasons would apply to all standard development proceedings. They noted the improvements in the management of the offeror process that have been made over the years and expressed the fear that if the CPSC unduly limits the use of the offeror process, it will limit the experience of groups outside the Commission in developing mandatory standards.

The Commission does not believe that the reasons given in the July 3, 1979, **Federal Register** notice to support the determination to develop the standard itself would apply equally in all other standard development situations. As explained in that notice, the Commission's staff has been actively involved in work related to the risk of electric shock associated with CB antennas for several years and in fact has already issued a regulation (16 CFR Part 1402) dealing with the same risk of injury that is addressed by this proceeding. In addition, the hazard to be addressed by this proceeding is especially severe. These factors might not be present to the same degree in other proceedings. The Commission believes that the decision of whether to develop a standard in-house must be made on a case by case basis after considering the factors specified in section 7(b)(2) of the act and that in the case of omnidirectional CB base station antennas, it is more expeditious for the Commission to develop the standard itself. The reasons for the Commission's decision to develop the standard itself are set forth in the July 3, 1979, **Federal Register** notice.

NCL also expressed concern over the fact that the Commission has put out for a bid a contract for technical research and assistance and has formulated a management plan before arranging for input from public participants. The Commission agrees with the view expressed by the commenter regarding the benefits of public participation in as many phases of standards development as possible. In this case, however, it would unduly delay the beginning of the necessary research to wait for formal participation by public participants in the standard development proceeding in the preparation of the contract documents. (However, the relevant documents may be obtained by request from the Office of the Secretary, and any comments will be considered.) Furthermore, the research provided for in the contract that the Commission has put out to bid would be contracted for by the Commission regardless of whether an offeror were conducting the proceeding, since the information to be obtained by the contract would be necessary in order for the Commission to evaluate a standard recommended by an offeror. The Commission also anticipates that it may be necessary to contract for additional research during the development period. If it does so, the public participants will have the opportunity to participate in evaluating the results of contract research and in deciding what additional contract research, if any, is necessary to support the standard development effort. For these reasons, the Commission believes that contracting for technical assistance at this time will not preclude effective participation by the public in the development effort.

The Commission also believes that a management plan is a necessary part of the information that potential public participants will need to know in order to decide whether to participate in the standard development process. However, changes may be made in the management plan at any time, and public participants may suggest any changes they feel are appropriate.

Two commenters expressed support for the Commission's determination to develop the standard itself. One of these commenters noted the Commission's

expertise in developing consumer product safety standards and in determining the feasibility of a standard.

A CB antenna manufacturer supported the Commission's efforts to introduce rules to address the electrocution hazard and offered to participate in any way possible. They stated that they had begun development work on designs that they believe "will achieve the goals of the Commission regarding safety."

F. Technical Issues

As explained above, the report prepared by a contractor for the Commission concluded that the most promising approach for providing protection from shock would involve insulating the antenna. Accordingly, the Commission anticipates that the thrust of the development effort will involve a resolution of issues relating to insulation. However, the development effort must include consideration of whether there are other means of achieving the objective of the standard while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with public health and safety. Some of the technical and factual issues that will be addressed during the development of the proposed standard are listed below.

1. The degree and nature of the risk of injury the standard is designed to eliminate or reduce.

2. The appropriate number of consumer products, or types of classes thereof, subject to the standard.

3. The need of the public for the consumer products subject to the standard, and the probable effect of the standard upon the utility (including the reception and transmission characteristics of the antennas), cost, or availability of the products to meet such need.

4. The special needs of elderly and handicapped persons and the extent to which such persons may be adversely affected by the standard.

5. The proper period of time between the issuance of a standard and the time that manufacturers would be required to comply with it.

6. Whether a performance standard is feasible, or whether the standard should specify design requirements such as types and thicknesses of insulating materials.

7. The level of voltage the standard should protect against. (Data available to the Commission show that almost 66 percent of the incidents involve power lines in the 7000 volt range and that less than 10 percent of the incidents involved lines carrying 13,000 volts or more.)

8. The period of time the insulation should be able to provide protection against the shock hazard when in contact with the power line.

9. Should there be requirements for abraison and/or impact resistance for the insulation? If so, what?

10. How much of the antenna should be insulated? (Available data show that almost all of the power line contact takes place with the antenna rather than the supporting structure and that about 66 percent of the accidents occurred within the top 5 feet of the antenna, about 87 percent occurred within the top 10 feet, and about 90 percent within the top 15 feet.)

11. Should the standard include a requirement that the antenna maintain its ability to provide protection (a) over a specified period of use or (b) under simulated or accelerated weathering tests in order to protect persons who take the antenna down?

12. What level of current should the standard specify as the maximum that the antenna may conduct under the standard's test conditions?

13. What is the potential for fire hazards caused if the insulation contacts high voltage power lines or self-heats as a result of operation of the antenna?

14. What are the potential environmental effects of a standard?

15. An estimation of the injury reduction that will be provided by the standard.

16. Should the labeling and instruction requirements of Part 1402 be maintained in their present form?

17. What requirements are appropriate in connection with the possible need for a mandatory testing program, and the certificates and labels of compliance, provided for under section 14 of the CPSA?

Persons who may have information relating to these and any other issues involved in the development of a standard to address the shock hazards associated with antennas are requested to contact the Commission at any time during the development, preferably by October 15, 1979, so that the Commission may consider the information during the development of the standard. Persons aware of any existing standards that may be relevant to this proceeding to develop a standard to address the shock hazards associated with antennas are also requested to notify the Commission.

G. How the Commission Will Develop the Standard

The Commission itself will ultimately approve the form and content of any standard for CB omnidirectional antennas that may be proposed. The staff will develop the data necessary to support the proposed standard and will prepare a draft proposed standard. The staff will forward the supporting data, the draft proposed standard, and the staff's recommendations and analysis to the Commission for its consideration.

The Commission's Program Manager for the Electrical Shock Hazard Program, Carl Blechschmidt, will be responsible for the compilation of data and development of the draft proposed standard as well as a draft proposed certification rule and possible testing program under section 14 of the CPSA. He is also responsible for maintaining liaison with the public participants. (Unless otherwise noted, a reference in this plan to the "standard" also refers to the certification rule and possible testing program.) He will be assisted by the Electrical Hazard Team (EHT) Project Manager, Melvin Spencer; the Electrical Hazard Team, which is composed of representatives from various Commission directorates; and other staff of the Commission necessary to develop and support the standard. (The Electrical Hazard Team is a permanently established group in the Commission whose function is to investigate and make recommendations concerning regulatory and other actions relating to electric hazards in all consumer products.)

Within the legal guidelines furnished by the Office of General Counsel (OGC), the EHT Program Manager will make the final determinations of the substance of the staff recommendations for requirements of the standard, the test procedures, any mandatory testing program, and the certification rule and will make the other determinations required for the development of these items. Where development of the standard requires a balancing of competing interests (such as degree of protection vs. economic impact), he will make such determinations as are necessary to the expeditious development of the draft proposed standard, and will provide the Commission with analysis of the pros and cons of the major alternatives encountered during the development of the standard. He will ensure that the technical and economic data required for the technical rationale and findings required by section 9 of the CPSA are developed by the staff. He will direct the scope of the staff's effort and, where appropriate, will determine which of various alternative approaches to risk reduction shall be investigated further. He will use his judgment in obtaining guidance on these determinations from the Director of the Office of Program

Management, the Executive Director, the Office of General Counsel, and/or the Commissioners. The Program Manager will be responsible for presenting to the Commission the staff's recommendations, with a full discussion of the alternatives in major areas of controversy and reasons for and against selecting these alternatives.

One or more persons from the Commission's staff will be assigned to assist the Program Manager in each of the following areas:

1. *Standard requirements.* A staff member will direct the group that will do the engineering work necessary for the development of the requirements of the recommended standard.

2. *Test procedures.* A staff member will direct the group that will do the engineering work necessary to develop test procedures for determining compliance with the requirements of the recommended standard.

3. *Certification and Compliance strategy.* Staff members will work with the Office of General Counsel in preparing the draft proposed and final testing program, certification rule, and compliance strategy.

4. *Human factors and labeling.* A staff member will provide information on all aspects of human behavior associated with installation and handling of the antennas.

5. *Economic impact.* A staff member will be responsible for analyzing the potential economic impact of the draft recommended standards and certification rules. This person will investigate the potential cost and other effects associated with insulating various portions of the antenna and the economic impact of a variety of alternatives.

6. *Hazard analysis.* A staff member will provide the hazard analyses required to evaluate various standard provisions under consideration and to support the findings required by section 9 of the CPSA.

The development effort will also be aided by interested persons from outside the Commission (participants) in the manner described in section H below.

The Office of Public Participation (OPP) will handle the administrative responsibilities associated with recruitment of the participants, the selection of participants who may receive funding, and the payment of any Commission contribution to the cost of participants. If requests for contribution to the cost of participants are received, a Financial Compensation Selection Committee consisting of the General Counsel, Executive Director, and Secretary of the Commission will decide which requests for compensation will be granted.

The Directorate for Engineering and Science (ES) will be responsible for the technical engineering aspects of the development of the standard, including:

a. Providing the staff members referred to in paragraphs 1 and 2 above.

b. Coordinating and developing test methodology and analysis required for the standard.

c. Developing the criteria for the possible testing program and certification rule in cooperation with the Office of General Counsel and the EHT member from the Directorate for Compliance and Enforcement.

d. Monitoring the development of the Electronic Industries Association's voluntary standard for CB omnidirectional antennas.

e. Preparing any Memorandum of Need for contract research in support of standards development and evaluation of any proposals submitted.

f. Monitoring the research effort after a contract has been let.

g. Informing participants of the technical engineering issues involved in the development of the standard.

The Directorate for Hazard Identification and Analysis will be involved in the development of the standard through its Division of Economic Program Analysis (HICP), Division of Hazard Analysis (HIEA), and Division of Human Factors (HIEH). HICP will analyze the economic impact aspects of the various alternatives offered and prepare the economic impact statements; HIEA will be responsible for the collection and analysis of additional data to support various provisions of the standard, especially as required by 9(c) of the CPSA; and HIEH will provide information on all aspects of human behavior associated with installation and handling of the equipment.

The Directorate for Compliance and Enforcement will develop the compliance strategy for enforcing the standard and, in cooperation with ES, will work with the Office of General Counsel in the development of a certification rule and possible testing program under section 14 of the CPSA. It is expected that a draft proposed and final certification rule and testing program, if appropriate, will be prepared along with a draft proposed and final standard. The staff believes that the simultaneous development of the draft certification rule and draft standard will reduce the total development time.

The Office of General Counsel (OGC) will provide guidance to the staff concerning the legal sufficiency of the information needed to support the issuance of a standard, including technical and economic supporting data. This shall include guidance at the stage when the need for contracts is being considered or questionnaires or surveys are being formulated, as well as review of draft documents. OGC shall ensure that the criteria in section 9 of the CPSA and the requirements of the National Environmental Policy Act (NEPA) and all other applicable statutes are considered and addressed during the development effort. OGC shall prepare the required **Federal Register** notices, including format and editorial aspects of the standard and certification rule, in consultation with the staff. An OGC representative shall attend team meetings as necessary. OGC shall assist in resolving official comments on **Federal Register** notices and determine the legal sufficiency of the responses to comments.

The Office of Communications will be responsible for:

a. Coordinating and disseminating information such as press releases and information materials for the general public concerning the standard development proceeding.

b. Providing data and recommendations for any section of the standard dealing with instructions.

The Commission shall maintain complete written records of the development of the proposed standard as provided in 16 CFR 1105.18(f). The Commission will make these records available for public inspection and will supply copies upon request, subject to the provisions of its regulations relating to the availability of Commission records (16 CFR Part 1015). Participants who request a financial contribution for the costs of their participation must keep complete records of the costs incurred (see section H below).

The Comptroller General of the United States or any of its duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records relevant to the development of the proposed standard or to the expenditure of any contribution of the Commission for the development of such proposed standard.

H. Public Participation

The Commission invites interested persons (including individual consumers, consumer organizations, manufacturers, distributors, retailers, importers, trade associations, professional and technical societies, testing laboratories, Federal and State agencies, and educational institutions) to participate with the Commission in

the development of the standard in the manner described below.

Section 7(d)(4) of the act requires that the Commission issue regulations governing the Commission's development of proposed consumer product safety rules by the Commission. These regulations must include requirements for notice and opportunity for interested persons (including representatives of consumers and consumer organizations) to participate in the development of such standard. The Commission has recently issued regulations for the Commission development of proposed standards (16 CFR Part 1105, Subpart C; 44 FR 48618; August 17, 1979), and these regulations will be followed in this proceeding.

Public participation is provided for in this proceeding by a series of public meetings, by open staff development meetings, by individual task assignments, by written comments on the final staff draft, and by participation by phone and by mail during the development process. Participants may begin or end their participation in the proceeding at any time and may participate in any or all of the ways discussed below.

1. *Public meetings.* There will be a series of 4 public meetings to be scheduled in Washington, D.C. at appropriate times during the development of the standard. The tentative dates for such meetings are November 1, 1979; February 28, 1980; June 30, 1980; and October 31, 1980. The public participants will be provided with the material that is available to the Commission that they will need to keep abreast of the progress of the development of the standard prior to each scheduled meeting.

These public meetings will be for the purpose of briefing the public on major milestones in the development of the standard, and for receiving data and comments from the public participants.

At the public meetings, the participants may submit such information and make such comments as they see fit. However, the presiding officer of the meeting may require the participants to limit or combine their presentations if time limitations must be imposed.

The public meetings will be announced in advance in the Commission's Public Calendar, which is a weekly publication distributed without charge. Any interested person may be placed on the mailing list for the Public Calendar by contacting the Office of the Secretary. In addition, persons who have notified the Office of the Secretary that they wish to participate in this proceeding will be directly notified of the time, place, and agenda of these meetings. These meetings will be open to any interested member of the public, space permitting. The Commission expects that any person who wishes to contribute information or comments at these meetings will have an opportunity to do so. However, if an exceptionally large number of persons desire to participate, space or time limitations may make it necessary to restrict the number of participants.

The first public meeting, presently scheduled for November 1, 1979, will be for the purpose of familiarizing the public participants with the information possessed by the Commission and obtaining initial input from the participants. If necessary, the meeting may extend for a second day to November 2, 1979.

Those persons who wish to participate in the development of the standard by attending the November 1, 1979, meeting should notify the Commission's Office of Public Participation by October 15, 1979, so that they may be provided with the appropriate background materials prior to the meeting.

2. *Open staff development meetings.* It is anticipated that much of the development effort will take place at meetings conducted on a frequent basis by the Commission's staff. When the Commission's staff determines that because of the number of staff participants, the importance of the issues being discussed, or other factors, it is desirable that the meetings be open to the public, notice of the meetings will, when possible, be placed in the Commission's Public Calendar. When time limitations make this unfeasible, the Commission will attempt to notify the public participants who have expressed an interest in attending these meetings. Participants are invited to attend any or all of the meetings that are open to the public in order to participate in the standard development by submitting such information and making such comments as they see fit. Participants should call CPSC staff before the meetings to confirm the schedule of these meetings. (See paragraph 5 below for information on how to contact CPSC by telephone.) The Commission wishes to stress that participation at these open meetings is not restricted to those participants who have received specific task assignments or who are receiving funding from CPSC. On the other hand, the Commission does not intend that all meetings involving its staff members or contractors will be open to the public.

3. *Task assignments.* In addition to participation by attendance at the public meetings and staff development meetings described above, individual public participants will be given an opportunity to work on particular tasks during the standard development in conjunction with the appropriate staff team members. Such assignments must be approved by the EHT Program Manager and agreed to by the public participant involved. It is anticipated that these assignments would primarily involve participants with an applicable technical background. Participants who would be interested in participating in a task assignment are encouraged to notify the EHT Program Manager.

Among the technical backgrounds that would be relevant to this proceeding are (1) engineering training with experience in high-voltage measurements or dielectric materials or (2) experience in radio communications or antenna design or construction.

4. *Comment on final draft.* When the final staff draft of the recommended proposed standard has been prepared, a copy will be sent to all persons who have notified the Office of the Secretary of their interest in participating in the development of the recommended proposed standard as well as to any other interested persons. These persons may submit written comments concerning the draft, which could include agreeing or disagreeing with any aspect of the draft. Where applicable, statements of disagreement should include alternate language suggested for the standard and the reasons, as specific and detailed as possible, for the alternate position. After making any changes to the draft resulting from consideration of the comments and statements of disagreement, the staff shall prepare a briefing package for the Commission, which will include an analysis of the comments and statements. Any statements of disagreement that are still applicable will be forwarded to the Commission with the briefing package and recommended proposed standard.

The actual decisions required for the development of the draft proposed standard will be made by the Commission's staff in the manner described in Section G above, and consensus or majority vote procedures will not be used in the develpment of the standard.

The staff shall keep minutes of all public meetings and open staff development meetings. These minutes will discuss the issues deliberated, the various positions discussed, alternatives offered, and assignments made. They will also highlight the advantages and disadvantages of various test procedures and the agenda of the next

scheduled meeting. The minutes will discuss specific technical differences encountered during the meeting. Copies of the minutes will be sent to all persons who have contacted the Commission indicating that they wish to participate. In addition, the staff will forward to the Commission and the participants a bi-monthly report on the progress of the development of the standard.

5. *Mail and/or phone.* For participants who wish to participate in ways in addition to or other than those described above, or who cannot attend the public or staff meetings, provision has been made for participation by mail or phone.

Participants periodically will be sent copies of meeting minutes, documents, drafts, etc., relating to the development of the standard. These persons may submit any comments or information by mail to Carl Blechschmidt, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 or by phone to the Commission's toll-free Hot Line (800–638–8326; in Maryland, dial 800–492–8363). If a participant wishes to speak to a staff member involved in the development of the standard, the Hot Line personnel will take the caller's name and number, and the appropriate staff person will return the call. If there is a sufficient response to this opportunity to participate by phone, the Commission will designate a period each week when staff members involved in the development of this standard will be available to take calls on the Hot Line number.

Funding for public participants. The Commission's regulations provide that the Commission may agree to contribute to the cost of persons who participate with the Commission in developing a proposed standard if the Commission determines:

(1) That a contribution is likely to result in a more satisfactory standard than would be developed without a contribution; and

(2) That the participant to whom a contribution is made is financially responsible.

The Commission has only limited funds available for contribution to public participants. In this proceeding, the Commission initially has allocated $23,000 for this purpose and estimates that this could provide funding for up to 6 public participants for attendance at the public meetings and for limited task assignments. After considering the requests for funding, however, the Commission may decide to provide a larger amount of funding for public participation.

The Commission expects that at least half of the funded participants would have an applicable area of technical expertise. However, funding for persons whose interests are those of general consumers will also be fully considered.

The Commission expects that persons applying for funding in response to this notice would be willing to participate during the entire development period. However, participants may apply for a contribution at any time and for all or part of the remaining development proceeding.

The Commission may compensate participants for any or all of the following costs:

(1) Salaries for participants, or employees of participants;

(2) Fees for consultants, experts, contractual services, and attorneys that are incurred by participants;

(3) Transportation costs;

(4) Travel-related costs such as lodging, meals tipping, telephone calls; and

(5) All other reasonable costs incurred, such as document reproduction, postage, baby-sitting, and the like.

(6) Long distance telephone calls to Commission staff.

Examples of the types of funding that would be considered by the Commission would include (1) transportation costs to the public meetings, (2) per diem expenses of $50.00 per day for meals, lodging, and miscellaneous expenses for participants from outside the Washington, D.C. area or (3) compensation for attendance at public meetings or work in preparation for the meetings.

In considering whether a contribution is likely to result in a more satisfactory standard, the Commission shall consider (i) the need for representation of one or more particular interests, areas of expertise, or points of view in the development proceeding and (ii) the extent to which particular interests, points of view, or expertise can reasonably be expected to be represented if the Commission does not provide any financial contribution.

In order to be eligible to receive a financial contribution, a participant must request in advance a specific type of contribution with an explanation as to why the contribution is likely to result in a more satisfactory standard than would be developed without a contribution (see the preceeding paragraph). The request for a contribution shall contain, to the fullest extent possible and appropriate, the following information:

(1) A description of the point of view, interest and/or expertise that the participant intends to bring to the proceeding;

(2) The reason(s) that representation of the participant's interest, point of view, or expertise can reasonably be expected to contribute substantially to a full and fair determination of the issues involved in the proceeding;

(3) An explanation of the economic interest, if any, that the participant has (and individuals or groups comprising the participant have) in any Commission determination related to the proceeding;

(4) A discussion, with supporting documentation, of the reason(s) a participant is unable to participate effectively in the proceeding without a financial contribution;

(5) A description of the participant's employment or organization, as appropriate; and

(6) A specific and itemized estimate of the costs for which the contribution is sought.

Requests for contributions must be submitted to the Office of the Secretary, 1111 18th Street, N.W., Washington, D.C. 20207, by October 15, 1979, or at least 60 days before the person wishes to begin participation.

The Commission may authorize a financial contribution only for participants who meet all of the following criteria:

(1) The participant represents a particular interest, expertise, or point of view that can reasonably be expected to contribute substantially to a full and fair determination of the issues involved in the proceeding;

(2) The economic interest of the participant in any Commission determination related to the proceeding is small in comparison to the participant's costs of effective participation in the proceeding. If the participant consists of more than one individual or group, the economic interest of each of the individuals or groups comprising the participant shall also be considered, if practicable and appropriate; and

(3) The participant does not have sufficient financial resources available for effective participation in the proceeding, in the absence of a financial contribution.

The Commission shall compensate participants only for costs that have been authorized and only for such costs actually incurred for participation in a proceeding.

The participant shall be paid upon submission of an itemized voucher listing each item of expense. Each item of expense exceeding $15 must be substantiated by a copy of a receipt, invoice, or appropriate document

evidencing the fact that the cost was incurred.

The Commission shall compensate participants only for costs that it determines are reasonable. As guidelines in these determinations, the Commission shall consider market rates and rates normally paid by the Commission for comparable goods and services, as appropriate.

Except for the provision of expenses such as for airline, train, or bus tickets for authorized travel, compensation is usually reimbursed to participants and not paid in advance. However, the Commission may make any contribution in advance upon specific request, and the contribution may be made without regard to 31 U.S.C. 529, which prohibits advance payments in cases of contracts for the performance of services.

The items of cost toward which the Commission will not contribute include:

(1) Costs for the acquisition of any interest in land or buildings;

(2) Costs for the payment of items in excess of the participant's actual cost; and

(3) Costs determined not to be allowable under generally accepted accounting principles and practices or Part 1–15, Federal Procurement Regulations (41 CFR Part 1–15).

I. Conclusion

Therefore, under section 7 of the Consumer Product Safety Act, 15 U.S.C. 2056, and after considering the factors specified in section 7(b)(2) of the act, the Commission begins the development of a proposed consumer product safety standard for omnidirectional Citizens Band base station antennas.

Dated: September 10, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

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